

ASSEMBLY BILL

No. 1509

Introduced by Assembly Member Spitzer

February 23, 2007

An act to amend Section 3003 of the Penal Code, and to add Section 6608.6 to the Welfare and Institutions Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1509, as introduced, Spitzer. Sex offenders: community placement.

Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, generally regulates the granting and conditioning of parole. Existing law further prohibits an inmate who is released on parole for a violent felony or a felony inflicting great bodily injury, from being returned to a location within 35 miles of the actual residence of a victim or witness of that felony, upon a victim or witness request and the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need for this restriction, as specified.

This bill would authorize the Department of Corrections and Rehabilitation, in cases in which as a result of this request the inmate will be released to a place other than the county of last legal residence, to place another parolee in that county, subject to specified notice requirements and opportunity for community input.

Existing law authorizes civil commitment for sexually violent predators who have been convicted of certain crimes of a sexual nature against multiple victims. Existing law further permits conditional release of a committed person for one year of community treatment if, after a hearing, the court determines that the committed person does not pose

a danger. Existing law, subject to exceptions, generally requires a person who is conditionally released under these provisions to be placed in the person’s county of domicile.

This bill would prohibit a person who is conditionally released under these provisions from being returned to a location within 35 miles of the actual residence of a victim of or a witness to a sexually violent offense committed by the person, if the victim or witness requests and the Department of Mental Health finds that there is a need for this restriction, as specified. The bill would also authorize the Department of Mental Health, in cases in which a person will be released to a place other than the county of domicile, to place another person who is conditionally released in that county, subject to specified notice requirements and opportunity for community input.

Proposition 83 permits the Legislature, by a 2/3 vote of membership of each house and in accordance with specified procedures, to amend the provisions of the act.

This bill would therefore require a 2/3 vote.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3003 of the Penal Code is amended to
2 read:

3 3003. (a) Except as otherwise provided in this section, an
4 inmate who is released on parole shall be returned to the county
5 that was the last legal residence of the inmate prior to his or her
6 incarceration. For purposes of this subdivision, “last legal
7 residence” shall not be construed to mean the county wherein the
8 inmate committed an offense while confined in a state prison or
9 local jail facility or while confined for treatment in a state hospital.

10 (b) Notwithstanding subdivision (a), an inmate may be returned
11 to another county if that would be in the best interests of the public.
12 If the Board of ~~Prison Terms~~ *Parole Hearings* setting the conditions
13 of parole for inmates sentenced pursuant to subdivision (b) of
14 Section 1168, as determined by the parole consideration panel, or
15 the Department of Corrections *and Rehabilitation* setting the
16 conditions of parole for inmates sentenced pursuant to Section
17 1170, decides on a return to another county, it shall place its
18 reasons in writing in the parolee’s permanent record and include

1 these reasons in the notice to the sheriff or chief of police pursuant
2 to Section 3058.6. In making its decision, the paroling authority
3 shall consider, among others, the following factors, giving the
4 greatest weight to the protection of the victim and the safety of the
5 community:

6 (1) The need to protect the life or safety of a victim, the parolee,
7 a witness, or any other person.

8 (2) Public concern that would reduce the chance that the
9 inmate's parole would be successfully completed.

10 (3) The verified existence of a work offer, or an educational or
11 vocational training program.

12 (4) The existence of family in another county with whom the
13 inmate has maintained strong ties and whose support would
14 increase the chance that the inmate's parole would be successfully
15 completed.

16 (5) The lack of necessary outpatient treatment programs for
17 parolees receiving treatment pursuant to Section 2960.

18 (c) The Department of Corrections *and Rehabilitation*, in
19 determining an out-of-county commitment, shall give priority to
20 the safety of the community and any witnesses and victims.

21 (d) In making its decision about an inmate who participated in
22 a joint venture program pursuant to Article 1.5 (commencing with
23 Section 2717.1) of Chapter 5, the paroling authority shall give
24 serious consideration to releasing him or her to the county where
25 the joint venture program employer is located if that employer
26 states to the paroling authority that he or she intends to employ
27 the inmate upon release.

28 (e) (1) The following information, if available, shall be released
29 by the Department of Corrections *and Rehabilitation* to local law
30 enforcement agencies regarding a paroled inmate who is released
31 in their jurisdictions:

32 (A) Last, first, and middle name.

33 (B) Birth date.

34 (C) Sex, race, height, weight, and hair and eye color.

35 (D) Date of parole and discharge.

36 (E) Registration status, if the inmate is required to register as a
37 result of a controlled substance, sex, or arson offense.

38 (F) California Criminal Information Number, FBI number, social
39 security number, and driver's license number.

40 (G) County of commitment.

- 1 (H) A description of scars, marks, and tattoos on the inmate.
- 2 (I) Offense or offenses for which the inmate was convicted that
- 3 resulted in parole in this instance.
- 4 (J) Address, including all of the following information:
- 5 (i) Street name and number. Post office box numbers are not
- 6 acceptable for purposes of this subparagraph.
- 7 (ii) City and ZIP Code.
- 8 (iii) Date that the address provided pursuant to this subparagraph
- 9 was proposed to be effective.
- 10 (K) Contact officer and unit, including all of the following
- 11 information:
- 12 (i) Name and telephone number of each contact officer.
- 13 (ii) Contact unit type of each contact officer such as units
- 14 responsible for parole, registration, or county probation.
- 15 (L) A digitized image of the photograph and at least a single
- 16 digit fingerprint of the parolee.
- 17 (M) A geographic coordinate for the parolee’s residence location
- 18 for use with a Geographical Information System (GIS) or
- 19 comparable computer program.
- 20 (2) The information required by this subdivision shall come
- 21 from the statewide parolee database. The information obtained
- 22 from each source shall be based on the same timeframe.
- 23 (3) All of the information required by this subdivision shall be
- 24 provided utilizing a computer-to-computer transfer in a format
- 25 usable by a desktop computer system. The transfer of this
- 26 information shall be continually available to local law enforcement
- 27 agencies upon request.
- 28 (4) The unauthorized release or receipt of the information
- 29 described in this subdivision is a violation of Section 11143.
- 30 (f) Notwithstanding any other provision of law, an inmate who
- 31 is released on parole shall not be returned to a location within 35
- 32 miles of the actual residence of a victim of, or a witness to, a
- 33 violent felony as defined in paragraphs (1) to (7), inclusive, *and*
- 34 *paragraph (16)* of subdivision (c) of Section 667.5 or a felony in
- 35 which the defendant inflicts great bodily injury on any person other
- 36 than an accomplice that has been charged and proved as provided
- 37 for in Section 12022.53, 12022.7, or 12022.9, if the victim or
- 38 witness has requested additional distance in the placement of the
- 39 inmate on parole, and if the Board of ~~Prison Terms~~ *Parole*
- 40 *Hearings* or the Department of Corrections *and Rehabilitation*

1 finds that there is a need to protect the life, safety, or well-being
2 of a victim or witness. *If, as a result of this request, the inmate*
3 *will be released to a place other than the county of last legal*
4 *residence, the Department of Corrections and Rehabilitation shall*
5 *be permitted to place another parolee in that county, provided that*
6 *the department provides any notice and opportunity for community*
7 *input required by law for release of parolees.*

8 (g) Notwithstanding any other law, an inmate who is released
9 on parole for a violation of Section 288 or 288.5 whom the
10 Department of Corrections and Rehabilitation determines poses a
11 high risk to the public shall not be placed or reside, for the duration
12 of his or her parole, within one-half mile of any public or private
13 school including any or all of kindergarten and grades 1 to 12,
14 inclusive.

15 **Notwithstanding**

16 (h) *Notwithstanding* any other law, an inmate who is released
17 on parole for an offense involving stalking shall not be returned
18 to a location within 35 miles of the victim's actual residence or
19 place of employment if the victim or witness has requested
20 additional distance in the placement of the inmate on parole, and
21 if the Board of ~~Prison Terms~~ *Parole Hearings* or the Department
22 of Corrections *and Rehabilitation* finds that there is a need to
23 protect the life, safety, or well-being of the victim.

24 ~~(h)~~

25 (i) The authority shall give consideration to the equitable
26 distribution of parolees and the proportion of out-of-county
27 commitments from a county compared to the number of
28 commitments from that county when making parole decisions.

29 ~~(i)~~

30 (j) An inmate may be paroled to another state pursuant to any
31 other law.

32 ~~(j)~~

33 (k) (1) Except as provided in paragraph (2), the Department of
34 Corrections *and Rehabilitation* shall be the agency primarily
35 responsible for, and shall have control over, the program, resources,
36 and staff implementing the Law Enforcement Automated Data
37 System (LEADS) in conformance with subdivision (e).

38 (2) Notwithstanding paragraph (1), the Department of Justice
39 shall be the agency primarily responsible for the proper release of
40 information under LEADS that relates to fingerprint cards.

1 SEC. 2. Section 6608.6 is added to the Welfare and Institutions
2 Code, to read:
3 6608.6. Notwithstanding any other provision of law, a person
4 who is conditionally released pursuant to this article shall not be
5 returned to a location within 35 miles of the actual residence of a
6 victim of, or a witness to, a sexually violent offense, as defined in
7 subdivision (b) of Section 6600, committed by the person, if the
8 victim or witness has requested additional distance in the placement
9 of the inmate on parole, and if the Department of Mental Health
10 finds that there is a need to protect the life, safety, or well-being
11 of a victim or witness. If, as a result of this request, the person will
12 be released to a place other than the county of domicile, the
13 Department of Mental Health shall be permitted to place another
14 person who is conditionally released in that county, provided that
15 the department provides any notice and opportunity for community
16 input required by law for persons pursuant to this article.

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